

REMARKS

Applicant respectfully requests reconsideration. Claims 1-43 were previously pending in this application. Claims 1, 2, 8, 10, 15 and 19, and 32 and 39 have been amended. As a result, claims 1-43 are pending for examination with claims 1, 19, 37 and 42 being independent claims. No new matter has been added.

Applicants wish to thank the Examiner for the courtesy of an Interview on February 7, 2005. During the interview, the rejection under 35 U.S.C. §112 was discussed. Claims, 1, 19, 37 and 42 were discussed. The Sanderson and Posthuma references were discussed. The following remarks provide a further summary of the subject matter discussed at the interview.

Rejections under 35 U.S.C. §112

Applicants disagree that the specification fails to teach the subject matter claimed in claims 17, 18, 35 and 36. The specification enables one of skill in the art to construct a system that predicts the dependability of line testing or predicts the reliability of line testing. In addition to the passages cited by the Examiner, the specification includes further description at page 16, line 24 through page 17, line 4. This passage describes an embodiment in which prediction techniques provide confidence factors associated with the predictions they make. Applicants contend that one of skill in the art would be able to translate confidence factors into dependability or reliability measures.

It is not necessary for the specification to provide a precise numeric formula for determining predictability or reliability. One of the aspects discussed in the application is that the telephone company may translate the confidence factors (or other indications of predictability or reliability) into a specific category based on the telephone company's business model. For example, a telephone company that incurs a high cost for determining whether a line can support data services if the test system does not make a useful prediction may classify relatively few test results as unpredictable or unreliable. Conversely, a telephone company that incurs a relatively high cost for incorrectly qualifying a line that is unsuitable for data services may classify any questionable line as unpredictable or unreliable. This approach to determining dependability or reliability based on the telephone company's business model is described in the specification. Therefore, one of skill in the art would be able to construct a system according to the claim.

Rejections Under 35 U.S.C. §102

Claims 1, 3-7, 13, 14, 19, 21-25, 31, 32, 37 and 41 are rejected under 35 U.S.C. §102(e) based on Sanderson. Independent claims 1 and 19 have been amended and recite features not shown or suggested in the references. The claimed method and computer program product are particularly useful for allowing a telephone company to efficiently manage the process of supplying high speed data service to their customers without wasting the time of technicians who are highly trained.

More specifically, claim 1 recites that the third category “indicates the selected line cannot currently support high speed access but could be altered to support high speed access.” Further, the claim recites that the results are received from a test system “making single-ended measurements.” Claim 19 has been amended to indicate that the third category “indicates the selected line as a condition creating an impediment to high speed access that can be removed.” These amendments make clear that the claims are directed to a very different feature than is the subject of the Sanderson reference.

Sanderson describes a gradient LED scale where colors indicate levels of service. The levels of service are determined based on attenuation of the line computed from two-ended measurements. The reference does not describe identifying lines that cannot currently support high speed access but could be altered to support high speed access or have an impediment to high speed access that could be removed. Accordingly, Sanderson does not teach or suggest the third category recited in claims 1 and 19. Claims 1 and 19 are neither anticipated nor obvious in light of the references.

Claims 3-7, 13, 14, 21-25, 31 and 32 depend from either claim 1 or claim 19. These claims should be allowed for the same reasons as given in connection with the claims from which they depend. As additional reasons why these claims should be allowed, the claims add further features that distinguish over the prior art. Independent claim 37 also recites features not shown or suggested by the reference. Claim 37 relates to a method of predicting the data rate of a line. In this claim, information that predicts data rate is provided for a plurality of line models. The claim further requires that measurements are made on the line that are then used to select one of the plurality of line models to represent the line. From the information provided for the selected line model, a data rate for the line is selected.

Sanderson does not show or suggest the use of models in the fashion recited in the claims. Rather it requires a test set up. Specifically, it shows a test signal system 34 and a test device 12 attached to opposite ends of the line. Actual measurements of the line, rather than a line model, are used to predict the data rate. Accordingly, the reference neither shows nor suggests the claimed features.

Claim 41 depends from and adds further distinguishing features to claim 37. Because the reference does not show the claimed "model," it does not show or suggest the further elaborations on this feature found in claim 41.

Rejections Under 35 U.S.C. §103

Claims 2, 11, 12, 20, 29, 30 and 42 are rejected under 35 U.S.C. §103 as unpatentable over Sanderson et al.

Claims 2, 11, 12, 20, 29, 30 are dependent claims, depending from claims 1 or 19. As discussed, the reference does not show or suggest the elements of the independent claims. Accordingly, these claims should be allowed for the same reasons as the independent claims.

In addition, the dependent claims provide further reasons for allowance. For example, claim 2 relates to the reliability with which test results may be assigned to a category.

Independent claim 42 also incorporates the use of a model in connection with predicting the data rate of a line under test. In this claim, the model represents noise on the line from a prediction of the number of disturbing signals that are carried within a cable bundle. The noise model is used to de-rate the performance of the line. In contrast, the Sanderson reference describes using actual measurements on the line. The reference does not teach or suggest the use of a model as part of predicting the data rate of the line and this claim is not anticipated or obvious based on the reference.

Rejection Under 35 U.S.C. §103 Based on Sanderson in view of Posthuma

Claims 8, 9, 15-16, 26-27, 33, 34, 38-40 and 43 are rejected based on Sanderson in view of Posthuma.

Each of these claims depends from independent claims 1, 19, 37 or 42. Accordingly, the claims should be allowed for the reasons given in connection with the independent claims. Specifically, Posthuma does not teach three categories of results, which as described above, is

required by some of the claims but is not shown in the Sanderson reference. Nor does Posthuma teach the use of models, which as described above, is required by others of the claims and is not shown in the Sanderson reference. The rejected claims are dependent claims and recite further features that distinguish over the references. For all of these reasons, claims 8, 9, 15-16, 26-27, 33, 34, 38-40 and 43 should be allowed.

CONCLUSION

Independent claims 1 and 19 have been amended and distinguish over the prior art.

Independent claims 37 and 42 already distinguish over the art of record and should be allowed.

Allowability of the four independent claims should resolve all issues with all of the claims. Additional arguments that the dependent claims present further reasons that support patentability have been presented.

Accordingly, a Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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